

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

John Anthony Castro, *
*
Plaintiff, *
v. * Civil No. 1:23-cv-00416-JL
*
Secretary of State David M. Scanlan, et al, *
*
Defendants. *

**SECRETARY OF STATE’S WITNESS LIST, EXHIBIT LIST, AND PROPOSED
FINDINGS OF FACT AND RULINGS OF LAW**

The Defendant, New Hampshire Secretary of State David M. Scanlan (the “Secretary of State”), through his counsel, the New Hampshire Office of the Attorney General, submits this witness list, exhibit list, proposed findings of fact, and proposed rulings of law for the Court’s October 20, 2023 hearing on jurisdictional issues. See ECF 36.

I. Secretary of State’s Proposed Witness List.

1. None

II. Secretary of State’s Proposed Exhibit List.

2. Plaintiff’s verified complaint. ECF 1.
3. Plaintiff’s verified emergency application for a temporary restraining order. ECF 6.
4. Plaintiff’s opening brief, Anthony John Castro v. Donald J. Trump, 11th Cir. Docket No. 23-12111, ECF 7 (filed July 14, 2023).

III. Secretary of State’s Proposed Findings of Fact.

5. The Plaintiff alleged in verified pleadings that he is suffering an injury in the form of “a diminution of votes and/or fundraising” by having to “compete against Donald J. Trump for the

Republican nomination for the Presidency of the United States.” See ECF 1, ¶¶21-23; ECF 6, at 7.

6. The Plaintiff believes that his alleged injury is caused by, i.e., “traceable to Trump.” See Anthony John Castro v. Donald J. Trump, 11th Cir. Docket No. 23-12111, ECF 7, at 26 (filed July 14, 2023).

7. The Plaintiff admits in verified pleadings that his requested relief will not redress his alleged injury because Mr. Trump can compete as a write-in candidate regardless of whether the Court grants his requested relief to order the Secretary of State to withhold Mr. Trump’s name from this State’s republican presidential primary ballot. See ECF 1, ¶7.

IV. Secretary of State’s Proposed Rulings of Law.

8. The Secretary of State does not have discretion to withhold the name of a candidate, who timely files a declaration of candidacy in the proper form and with the required filing fee, from the presidential primary ballot based on unproven allegations that the candidate is disqualified from holding the office of the president under Section Three of the Fourteenth Amendment to the United States Constitution. See RSA 655:47-48.

9. A presidential primary candidate may be awarded delegates to their political party’s national convention based on write-in votes in New Hampshire’s presidential primary election. See RSA 659:93-94.

10. The Plaintiff lacks Article III standing because he has not demonstrated a cognizable injury-in-fact.

11. The Plaintiff lacks Article III standing because he has not demonstrated that his alleged injury is traceable to the Secretary of State.

12. The Plaintiff lacks Article III standing because he has not demonstrated that his requested relief would redress his alleged injury.

Respectfully submitted,

Secretary of State David M. Scanlan

By his attorney,

THE OFFICE OF THE ATTORNEY GENERAL

Dated: October 17, 2023

/s/ Brendan A. O'Donnell

Brendan A. O'Donnell, Bar #268037

Assistant Attorney General

Election Law Unit

New Hampshire Department of Justice

33 Capitol Street

Concord, N.H. 03301

603-271-1269

brendan.a.odonnell@doj.nh.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent by ECF on October 17, 2023, to all parties of record.

/s/ Brendan A. O'Donnell

Brendan A. O'Donnell